



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/528,889	03/20/00	HULLENDER	G 1204

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LM31/0911

EXAMINER

MILLER, M

ART UNIT	PAPER NUMBER
2723	2

DATE MAILED: 09/11/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/528,889

Applicant(s)

Hullender et al.

Examiner

Martin Miller

Group Art Unit

2723



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,061,472. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant invention is merely a broader version of the those features taught in claim 1 of

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U.S. Patent No. 6,061,472 (hereinafter '472 patent). The '472 patent was issued for a method of recognizing chirographs input into a computer system. The method required the training of secondary recognizers that would improve the recognition accuracy of the system. The instant invention is also directed to recognizing chirographs input into a computer system and is merely the implementation of the trained recognizers from the '472 patent. The implementation of the secondary recognizers was full disclosed in the specification of the '472 patent and was one of the general objects of that patent. See col. 1, ll. 57-60 and col. 2, ll. 11-20.

The following limitations from the '472 patent are substantially identical to those of the instant invention:

- providing a primary recognizer for converting chirographs to code points;
- receiving a chirograph;
- providing the chirograph to the primary recognizer and receiving a code point corresponding thereto;
- determining if the code point corresponds to a selected code point having a secondary recognizer associated therewith, and if so, passing the chirograph to the secondary recognizer and returning a code point from the secondary recognizer;

The second limitation of the '472 patent provides for the "training a plurality of secondary recognizers to differentiate chirographs which produce a selected code points..."

The second limitation of the instant invention "provides a plurality of secondary recognizers to convert chirographs in to code points". This is simply the implementation of the

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trained recognizers claimed in the '472 patent and would have been obvious to one of ordinary skill in the art.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

a person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Filipski, U.S. Patent no. 4,975,975.

As per claim 1, Filipski teaches:

providing a primary recognizer for converting chirographs (col. 5, lines 52-53) to shape indexes (data structures or extracted features) (col. 6, line 54);

providing a plurality of secondary recognizers (col. 2, l. 66-col. 3, l. 21) to convert chirographs into code points (extracted feature or data structure held in R.sub.k) (col. 6, lines 38-47), and associating the secondary recognizers with at least some of the shape indexes, each secondary recognizer capable of overriding a shape index provided by the primary recognizer;

receiving a chirograph (col. 4, lines 29-30).

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providing a chirograph to a primary recognizer and receiving a code point (col. 6, lines 38-47).


determining whether one of the secondary recognizers is associated with the shape index, and if so, selecting that secondary recognizer as a selected secondary recognizer (lower member of hierarchy)(col. 6, line 38-col. 7, line 8); and

passing the chirograph to the selected recognizer and returning a code point from the secondary recognizer (col. 6, l. 38- col. 7, l. 5).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following U.S. Patent refers to matching similar handwriting: Barbara et al., 5710916

6. Any inquiry to this communication should be directed to the Examiner, Martin Miller, whose telephone number is (703) 306-9134. If you are unable to reach the Examiner, his supervisor's name is Amelia Au, whose telephone number is (703) 308-6604. The Art Unit Facsimile machine number is (703) 306-5406.


Amelia Au
Supervisory Patent Examiner
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